

**MINUTES  
YORK COUNTY PLANNING COMMISSION**

Regular Meeting  
York Hall, 301 Main Street  
January 8, 2003

**MEMBERS**

Andrew A. Simasek  
Robert D. Heavner  
Nicholas F. Barba  
Alfred E. Ptasznik, Jr.  
Michael H. Hendricks  
Ann F. White

**CALL TO ORDER**

Chair Michael Hendricks called the regular meeting of the York County Planning Commission to order at 7:00 p.m. The roll was called and all members except Mr. Simasek were present. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, Amy M. Parker, and Maggie Hedberg.

**REMARKS BY THE CHAIR**

Chair Hendricks remarked that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. Its responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members, but is presently short one member. The York County Planning Commission is commemorating its fiftieth anniversary, having been established in August 1952.

**APPROVAL OF MINUTES**

Mrs. White moved to adopt the minutes of the December 11, 2002 meeting as submitted. They were adopted unanimously (Mr. Simasek absent).

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARINGS**

**Application No. ZT-71-03, York County Planning Commission:** Request to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to revise Section 24.1-373, FMA-Floodplain Management Overlay District, to incorporate certain changes required by the Federal Emergency Management Agency for consistency with the National Flood Insurance Program requirements.

Mr. Mark Carter presented a summary of the staff recommendation contained in a memorandum dated December 20, 2002.

PC03-1

On motion of Mr. Ptasznik, which carried 5:0 (Mr. Simasek absent), the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-71-03 TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) BY REVISING SECTION 24.1-373. FMA-FLOODPLAIN MANAGEMENT AREA OVERLAY DISTRICT TO INCORPORATE CERTAIN CHANGES REQUIRED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY**

WHEREAS, Section 24.1-373 of the Zoning Ordinance sets forth the requirements applicable to floodplain management areas in the County; and

WHEREAS, the Federal Emergency Management Agency has notified the County of the need for certain revisions in the floodplain management overlay provisions in order to maintain full compliance with the requirements of the National Flood Insurance Program; and

WHEREAS, the Planning Commission has determined that amendment of the Zoning Ordinance as recommended would be consistent with the needs and general welfare of the public that desires to participate in the National Flood Insurance Program;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of January, 2003 that it does hereby sponsor an application to amend Chapter 24.1, Zoning, of the York County Code to consider the following amendments to Section 24.1-373:

**24.1-373. FMA-Floodplain management area overlay district.**

- (a) *Statement of intent.* In accordance with the objectives of the comprehensive plan, these regulations are intended to ensure the health, safety and general welfare of the public by ensuring that inhabitants and property within the areas designated as flood hazard areas are safe from damage due to flooding and that development actions will not endanger others. This section complies with the requirements of the National Flood Insurance Program (42 U.S.C. 4001, et seq.) administered by the Federal Emergency Management Agency and is necessary to ensure that all property owners within the county are eligible for participation in the National Flood Insurance Program regular program and thereby able to secure such insurance at nominal rates.

*Applicability.*

- (1) The special provisions established in this section shall apply to the following areas:
- a. Areas designated as being within the 100-year floodplain by the Flood Insurance Study and as delineated on the Flood Insurance Rate Map (FIRM) dated December 16, 1988, or as subsequently may be amended as Zone A, Zone AE, or Zone VE. A copy of the Flood Insurance Study and accompanying maps shall be filed in the offices of the zoning administrator and building official.

- b. Such other areas as may be determined by the zoning administrator, through drainage and hydrology studies, to be essential to the alleviation of potential flood damage caused by the 100-Year Flood and for which the county has requested amendment or revision of the Flood Insurance Rate Map.

These special provisions shall supplement the regulations of the zoning district within which a subject property is located. The floodplain districts described herein shall be overlays to the existing underlying zoning districts.

Where these regulations are at variance with the general regulations of this chapter, the specific regulations of the zoning district within which the property is located, or other provisions of this Code, the most restrictive regulation shall apply.

- (4) Any changes to the data contained in either the Flood Insurance Study or the Flood Insurance Rate Map as a result of natural or man-made conditions or subsequent study and analysis shall require the approval of the National Flood Insurance Administrator prior to implementation. Evidence of such approval shall require the filing with the zoning administrator of one of the following:

- a. Letter of Map Amendment (LOMA)
- b. Letter of Map Revision (LOMR)
- c. Physical Map Revision

In all cases, the burden of proof shall be on the applicant requesting a map or data change.

- (5) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered within the floodplain management area except in full compliance with the terms and provisions of this section.

- (c) For the purposes of this section, the following terms shall have the following meanings:

***Basement.*** As used in this section, a basement shall be defined as any part of any structure where the floor is below ground level on all ~~four~~ sides.

***Channel.*** A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.

***Development.*** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and the storage of materials and equipment.

***Flood or flooding.***

- A general and temporary condition of partial or complete inundation of normally dry land areas from:
- overflow of inland or tidal waters, or
- the unusual and rapid accumulation or run-off of surface waters from any source, or

- mudslides (i.e., mudflows) which are proximately caused by flooding or precipitated by accumulations of water on or under the ground.

The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by water or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined above.

***Flood, 100-Year.*** A flood level with a one-percent (1%) or greater chance of being equaled or exceeded in any year. Also referred to as base flood.

***Flood elevation, base.*** The elevation in feet of the 100-Year Flood level as shown on the Flood Insurance Rate Map (FIRM) published by the National Flood Insurance Program and the Federal Emergency Management Agency.

***Flood hazard zone.*** The delineation of special flood hazard areas into insurance risk and rate classifications on the Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency and which include the following zones and criteria:

- ***Zone A.*** Areas subject to inundation by the 100-Year Flood where detailed analyses have not been performed and base flood elevations are not shown.

***Zone AE.*** Areas subject to inundation by the 100-Year Flood as determined by detailed methods with base flood elevations shown within each area.

***Zone VE.*** Areas along coastal regions subject to additional hazards associated with storm wave and tidal action as well as inundation by the 100-Year Flood.

***Zone X.*** Areas located above the 100-Year Flood boundary and having moderate or minimal flood hazards.

***Floodplain.*** A land area which is likely to be inundated by a flood. Floodplain areas are generally adjacent to a river, stream, bay, lake, watercourse, or storm drainage facility.

***Floodplain management area.*** A land area located within a Flood Hazard Zone or which has been designated by the County and to which the provisions of this section apply.

***Floodproof.*** A construction method designed to ensure that all parts of a structure or facility located below the base flood elevation are watertight with walls impermeable to the passage of water and with structural components having the capability of withstanding hydrostatic and hydrodynamic loads and the effects of buoyancy.

~~***Floodway and regulatory floodway.*** The channel of any river, stream, watercourse, or storm drainage facility and the adjacent areas reserved in an unobstructed manner to carry the discharge of a 100 Year Flood without increasing flood levels.~~

***Manufactured home.*** The provisions of section 24.1-104, *Definitions* of this chapter notwithstanding, for purposes of this section, a manufactured home shall be defined as a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when

connected to the required utilities. Also included within this definition shall be park trailers, travel trailers, and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days, excluding however, those such vehicles stored on a property and not used for their intended purposes.

**Mean sea level.** National Geodetic Vertical Datum (NGVD) of 1929 to which all elevations on the FIRM and within the Flood Insurance Study are referenced.

**Sand dune.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**Substantial improvement.** For purposes of this section, substantial improvement of existing structures shall be defined as any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started or, if the structure has been damaged, before the damage occurred. The following, however, shall be excluded from the above definition:

- Alterations made to any structure listed on either the National Register of Historic Places or the Virginia Register of Historic Landmarks.
- Actions of an emergency nature taken to comply with existing Virginia or county codes which are necessary solely to ensure safe living conditions.

**Watercourse.** A natural or artificial channel for the passage of running water fed from natural sources in a definite channel and discharging into some stream or body of water.

(d) **Use Regulations.** Permitted uses, specially permitted uses, accessory uses, dimensional standards, and special requirements shall be as established by the underlying zoning district, except as specifically modified herein.

1 The following uses shall be specifically prohibited within Floodplain Management Areas:

- a. Landfills, junkyards, outdoor storage of inoperative vehicles.
- b. Manufactured homes
- c. Surface mines and borrow pits
- d. Manufacture, bulk storage, transformation or distribution of petroleum, chemical or asphalt products or any hazardous materials as defined in either or both of the following:

1 Superfund Amendment and Reauthorization Act of 1986

2. Identification and Listing of Hazardous Wastes, 40 C.F.R. §261 (1987)

The following products shall be specifically included:

- a) Oil and oil products including petrochemicals
- b) Radioactive materials
- c) Any material transported or stored in large commercial quantities (such as 55-gallon drums)

which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a strong oxygen demand

- d) Biologically accumulative poisons
  - e) Substances containing the active ingredients of economic poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.)
  - f) Substances highly lethal to mammalian or aquatic life
- e. Storage or land application of industrial wastes

Outdoor storage of equipment, materials, or supplies which are buoyant, flammable, or explosive.

- (2) The provisions of article VIII. *Nonconforming Uses* of this chapter notwithstanding, no expansion of any of the above uses located within the Floodplain Management Area shall be permitted.

*(e) Special standards and requirements.*

- (1) *Standards for subdivisions.* Preliminary plans, development plans and final subdivision plats of all properties, all or part of which are located within any flood hazard zone, must be prepared and sealed by a licensed surveyor or engineer. The following information, in addition to that which would otherwise be required, shall be provided on the respective plans:
- a. The 100-Year Flood boundary, as depicted on the FIRM and the flood hazard zone classification(s) shall be depicted on preliminary plans, development plans, and final plats.
  - b. Development plans shall provide topographical information for the site at a maximum contour interval of two feet (2')—~~{0.5m}~~, provided, however, that a one foot (1') ~~{0.25m}~~ contour interval for elevations one foot (1') ~~{0.25m}~~ lesser and one foot (1') ~~{0.25m}~~ greater than the 100-Year Flood boundary shall be shown.
  - c. The elevation of the finished surface of the ground at each corner of each existing building located within any flood hazard zone shall be shown on development plans and final plats.

- (2) ***Standards for site plans.*** Site plans for development of all properties, all or part of which are located within any Flood hazard zone, must be prepared and sealed by a licensed surveyor or engineer and include the following information in addition to that which would otherwise be required:

- a. The 100-Year Flood boundary, as depicted on the FIRM and the flood hazard zone classification(s).
- b. Topographical information for the site provided at a maximum contour interval of two feet (2') ~~{0.5m}~~, provided, however, that a one foot (1') ~~{0.25m}~~ contour interval shall be required for elevations one foot (1') lesser and one foot (1') ~~{0.25m}~~ greater than the 100-Year Flood boundary and the boundary itself shall be shown.
- c. The elevation of the finished surface of the ground at each corner of each existing or proposed building location within any flood hazard zone.

- (3) ***Standards for utilities.*** All new or replacement utilities, water filtration, and wastewater treatment facilities, installed in the floodplain management area shall be designed to prevent the infiltration of floodwaters into or discharge from such utilities and to minimize the potential for flood damage.

Where private waste disposal systems are to be installed or replaced, they shall be installed so that they will not be permanently contaminated or impaired by a base flood.

- (4) ***Standards for streets and roads.*** The finished centerline elevation of all new public or private streets shall be no lower than six and one-half feet (6½') ~~{2m}~~ above mean sea level (NGVD) provided, however, that where an existing street not meeting this criterion is to be extended, the zoning administrator may approve streets or parts thereof which are below this elevation, but not lower than the elevation of the existing street.

- (5) ***Standards for filling of floodplain areas.***

- a. Where fill within the floodplain management area is proposed, the following minimum standards shall apply:
  1. Fill areas shall extend laterally a minimum of fifteen feet (15') ~~{4.5m}~~ beyond building lines from all points.
  2. Fill material shall consist only of soil and small rock materials which can pass through a three-inch (3") ~~{75mm}~~ opening ASTM standard sieve. Organic materials, including tree stumps and asphalt rubble, shall be prohibited.

3. Fill areas shall be compacted as may be specified by the zoning administrator to provide necessary permeability and resistance to erosion, scouring, or settling.
  4. Fill areas shall be graded to a finished slope of no steeper than one (1) vertical to three (3) horizontal, unless substantiated data, certified by a licensed engineer, which justifies steeper slopes is submitted to and approved by the zoning administrator.
  5. The zoning administrator shall impose any additional standards deemed necessary to ensure the safety of the community and properties from additional flood hazard potentials caused by filling within the floodplain management area.
    - ~~b.~~ ~~Filling or any other encroachment into a regulatory or other designated floodway which, as determined by the zoning administrator, in any way impairs its flood conveyance shall be prohibited.~~
    - b. Filling or any other encroachment into any channel within the floodplain management area which would, as determined by the zoning administrator, obstruct or unduly restrict water flows through the channel and, in so doing, increase the potential for flood damage shall be prohibited whether or not such channel lies within the regulatory or other designated floodway.
    - c. The filling of any portion of property solely to increase the elevation of the land to meet minimum lot area requirements and thereby create a buildable lot for residential construction within the floodplain management area shall be prohibited.
    - d. These standards may be waived individually by the zoning administrator, upon the recommendation of the wetlands board for approved parks, recreation facilities, shoreline erosion control and beach maintenance projects where sufficient data is presented justifying the project and where it is demonstrated that such actions will not increase flood levels on any properties.
- (6) *Standards for watercourse modification.* Watercourses shall not be altered or relocated except upon the presentation of data, certified by a licensed engineer, that the flood-carrying capacity of such a modified watercourse will be at least equal to that prior to modification. Prior to any proposed alteration of any channels or of any watercourse or stream within the Floodplain Management Area overlay district, a permit shall be obtained from The zoning administrator shall, at minimum, obtain the approval of the Federal Insurance Administrator, the Natural and Technological Hazards Division of the Federal Emergency Management Agency, any adjacent localities and, if deemed appropriate, the Army Corps of Engineers, or the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Soil and Water Conservation) and the Federal Insurance Administration. ~~Water Board, prior to granting approval for any watercourse modifications.~~
- (7) *Construction standards for properties in Zone AE.* All new construction or substantial improvement in Zone AE of the floodplain management



area shall occur in accordance with the applicable floodplain construction provisions for Zone AE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy.

In addition, the following standards shall apply:

- a. It is strongly recommended that all new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed at least one and one-half feet (1 ½') ~~{500mm}~~ above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
- b. It is strongly recommended that all electrical distribution panels be installed at least three feet (3') ~~{1m}~~ above the base flood elevation or otherwise designed and located so as to prevent inundation.
- c. In all cases, elevation of the lowest floor of the structure, including basements, to at least one and one-half feet (1 ½') ~~{500mm}~~ above the base flood elevation or, in the case of non-residential structures, floodproofing to at least that level, is strongly encouraged and may result in a reduction of flood insurance premiums.

(8) *Construction standards for properties in Zone VE.* All new construction or substantial improvement in Zone VE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone VE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy. In addition, the following standards shall apply:

- a. All new construction or development shall be located landward of the reach of the mean high tide.
- b. Any man-made alteration of a sand dune or any part thereof shall be prohibited.
- c. No structure or any part thereof may be constructed on fill material of any kind.

- d. It is strongly recommended that all new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed at least three feet (3') ~~{1m}~~ above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
- e. It is strongly recommended that all electrical distribution panels be installed at least six feet (6') ~~{2m}~~ above the base flood elevation or otherwise located so as to prevent inundation.
- f. In all cases, elevation of the lowest structural member of the lowest floor of the structure, excluding pilings or columns, to at least three feet (3') ~~{1m}~~ above the base flood elevation is strongly encouraged and may result in a reduction of flood insurance premiums.

(9) *Construction standards for properties in Zone A.* All new construction or substantial improvements in Zone A must comply with all standards applicable to Zone AE contained in this section and the floodplain construction provisions of the Virginia Uniform Statewide Building Code. In addition, the owner and developer of such property shall provide to the zoning administrator sufficiently detailed hydrologic and hydraulic analyses, certified by a licensed engineer, to determine the base flood elevation for the property and the location of the 100-Year Flood Boundary. Upon approval by the zoning administrator, copies of all such detailed analyses shall be transmitted to the National Flood Insurance Administrator for incorporation into the FIRM.

- (f) *Variances.* Variances from the provisions of this section may be granted by the board of zoning appeals in accordance with the provisions of article IX of this chapter except that the board of zoning appeals shall notify all applicants, in writing, that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to an annual premium equal to twenty-five percent (25%) of the total insurance coverage and that such construction increases risks to life and property, both their own and others. Copies of this notification shall be transmitted, along with all other records of variances from the provisions of the floodplain management area, to the Federal Insurance Administrator at least biannually. In granting variances from the provisions of this section, the board of zoning appeals shall find that the variance is the minimum necessary to afford relief.

(Ord. No. 098-18, 10/7/98)

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**Application No. UP-610-02 (amended), Kenneth Dale Moore: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 14, No. 6) of the York County**

Zoning Ordinance, to authorize the establishment of a mini-storage warehouse facility on a 2.6-acre portion of a 6.3-acre parcel of land located on Hampton Highway (Route 134) approximately 900 feet east of the intersection of Hampton Highway and Big Bethel Road (Route 600). The property, further identified as Assessor's Parcel No. 37-158, is zoned GB (General Business), and the Comprehensive Plan designates this area for General Business and Medium-Density Residential development. The Planning Commission originally considered this application at its October 9, 2002 meeting and voted 6:0 to recommend denial. The applicant has since modified the original application, and the Board of Supervisors has referred it back to the Commission for consideration.

**Mr. Tim Cross, Principal Planner**, presented a summary of the staff memorandum. He described the modifications to the previous application, the most significant of which is a single entrance on Route 134 to serve the entire parcel. All of the revisions would be to the eastern side of the property, he pointed out during a comparison of the original plan and the revised plan. Mr. Cross noted that the revised application still fails to meet the goals of the Comprehensive Plan, which is very specific for this location to accommodate a commercial node with uses typically found in small shopping and office centers. Mr. Cross said the staff does not believe the revisions have adequately addressed staff concern, and recommended denial.

**Chair Hendricks** opened the public hearing

**Mr. Lamont Myers**, 108 Pheasant Watch, introduced himself as agent for the property owner and the applicant's representative for this application. Mr. Myers said the staff report is more favorable for approval than the report for the application presented to the Commission last October. He said staff's recommendation of denial is based on erroneous assumptions. In Mr. Myers' opinion, the application is consistent with the Comprehensive Plan.

Mr. Myers read from a letter he received from a commercial developer stating that the parcel does not have enough depth for a shopping center with a grocery store. Mr. Myers distributed comparative tax assessment data to the members [attached to minutes of record]. He maintained that, although retail business may generate more taxes, the negative impacts would include heavier traffic, noise, lighting, litter and police protection. The County can control virtually every aspect of development of the proposed business, he added, in contrast to potential permitted uses over which the County would have virtually no control. He spoke of the low visual impact of the proposed storage facility. Mr. Myers said offices are not represented in the development because Route 134 is not an attractive location for them. He believed there was adequate justification to accept the revised proposal and requested a recommendation of approval.

Ms. White requested information about the change in configuration from individual storage units accessed from the outside to a walk-in storage facility.

**Mr. Dale Moore**, the applicant, said the decision to locate one or two large buildings on a portion of the site rather than several smaller ones was a matter of choice. He said the overall configuration is desirable and represents a reasonable mix of individual unit sizes, access to which would be from hallways. He added that all units would meet the fire code and be secured overnight.

Ms. White was concerned that a larger number of units might generate excessive traffic. Mr. Cross said the ITE (Institute of Transportation Engineers) Traffic Generation Manual provides trip generation figures based on both square footage and the number of units, but that because the applicant's sketch plan does not indicate how many units would be built, staff based its traffic estimates on total square footage. Mr. Carter added that, given the low number of trips generated by a storage facility, an increase in the number of units should have no significant traffic impact and it would still be less than if developed for retail use.

Mr. Barba asked if the access road to Belmont Apartments would provide access to the remainder of the parcel, and Mr. Myers stated that it would.

There being no one else who indicate a desire to speak, the Chair closed the public hearing.

Mr. Hendricks recognized that the applicant has made significant changes to the application since it was first brought before the Commission, but he remained opposed to the project in that particular location. He did not believe there was a time imperative to approve that particular use of the subject parcel and preferred to wait for a use more consistent with the Comprehensive Plan.

Mr. Ptasznik believes there is a need for mini-storage in this part of the County and could support it, having considered other less desirable uses that could be made of that parcel. He said the applicant made strides in accommodating staff concerns, the design is appropriate, it is a good project for residents who live behind the property, and that the triangle of land in front of the parcel may never be developed. This business has the potential to be long-term as opposed to many others in the County that are going out of business, he added.

Mr. Ptasznik added that he was pleased that the Board of Supervisors had referred the applicant back to the Commission after it was revised and would like for that to occur whenever appropriate.

Mr. Heavner added that he never thought the corner property had retail appeal because it lacks the important element of visibility. A shopping center without a major anchor is extremely vulnerable to loss of tenants, he believed, and the proposed facility would satisfy a need and would be successful in this location.

Ms. White said she would prefer to wait for the right type of business.

Mr. Barba complimented Mr. Moore and Mr. Myers for their presentation, but did not think a storage facility is desirable for the location because Route 134 is a main arterial route still undergoing development.

#### PC03-2

On motion of Ms. White, the following titled resolution was defeated by a vote of 2:3 (Yes - Heavner, Ptasznik; No - Barba, White, Hendricks).

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A MINI-STORAGE WAREHOUSE FACILITY ON 2.6 ACRES ALONG ROUTE 134**

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**Application No. UP-613-03, Sharon G. Crowder:** Request for a Special Use Permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize the establishment of a detached accessory apartment in conjunction with a single-family dwelling located at 315 Dandy Loop Road. The applicant is proposing to construct the 900-square-foot apartment above the existing detached garage. The 0.96-acre parcel is located on the north side of Dandy Loop Road, approximately 1600 feet southeast of its intersection with Goodwin Neck Road (Route 173) and is further identified as Assessor's Parcel No. 20C-1-13. The property is zoned RR (Rural Residential) and is designated for Low Density Residential development in the Comprehensive Plan.

Ms. Maggie Hedberg, Planner, made the staff presentation that concluded with a recommendation of approval.

Mr. Ptasznik asked if a variance would be required to allow less than a 20-foot separation distance from the main residence and Ms. Hedberg replied the applicant is required to prove hardship to acquire approval of less than a 20-foot separation distance.

Responding to Mr. Barba, Ms. Hedberg said the staff is not aware of any neighborhood opposition

Chair Hendricks opened the public hearing

Ms. Sharon Crowder, 315 Dandy Loop Road, stated that she and her fiancé are requesting the accessory apartment in order to accommodate their combined families, and they believe it is more aesthetically desirable to build a 1,050-square-foot addition instead of the recommended 915 square feet. She said the roof contours of the existing residence do not lend it to expansion.

Ms. White inquired about the deck that is proposed for the upper level of the accessory apartment and Ms. Crowder confirmed that the deck is at the top of the stairway of the proposed addition. Ms. White continued, asking if the existing fence in front of the swimming pool and the stairs will remain.

Mr. Bill Jones, the applicant's fiancé, responded that the stairs will remain in close proximity to the fence around the pool, but the applicant plans to reposition the main entrance to the center of the structure, he added.

The Chair closed the public hearing.

Mr. Barba proposed that the Commission defer its recommendation until after the January 22<sup>nd</sup> work session on accessory apartments because the number of applications for accessory apartments is steadily increasing. Mr. Hendricks argued that the work session will give the members a sense of

what is acceptable but may reach no conclusion, and he did not think it fair for this applicant to be expected to wait.

Ms. White commented on the deck and stair arrangement not providing internal entrances, and Mr. Carter noted that there are existing accessory apartments with external stairways leading into the main residence or into a separate building.

**PC03-4**

On motion of Mr. Ptasznik, which carried 5:0, (Mr. Simasek absent), the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT  
TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 315 DANDY  
LOOP ROAD.**

WHEREAS, Sharon G. Crowder, Trustee has submitted Application No. UP-613-03 to request a Special Use Permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 315 Dandy Loop Road and further identified as Assessor's Parcel No. 20C-1-13; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of January, 2003, that it does hereby transmit Application No. UP-613-03 to the York County Board of Supervisors with a recommendation of approval, subject to the following conditions:

This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 315 Dandy Loop Road and further identified as Assessor's Parcel No. 20C-1-13.

2. Building plans in substantial conformance with the plans submitted by the applicant shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the issuance of a building permit for the accessory apartment.
3. The height of the garage with the accessory apartment shall be limited to twenty-one (21) feet.
4. The accessory apartment shall be no less than twenty (20) feet from the principal dwelling.

5. The first floor of the garage shall be retrofitted to comply with all applicable flood zone requirements prior to the issuance of a certificate of occupancy for the accessory apartment.
6. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
7. The accessory apartment unit shall not contain in excess of 900 square feet
8. The accessory apartment unit shall contain no more than one (1) bedroom.
9. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
10. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.

In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

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**Application No. UP-614-03, Columbian Council 7469:** Request to amend a previously approved Special Use Permit, pursuant to Section 24.1-115(d) of the Zoning Ordinance, granted for a Knights of Columbus meeting hall located at 8729 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24A-1-5. Revisions include reduction of landscaping and extension of time period to comply with conditions of approval. The 0.79-acre parcel is located on the south side of George Washington Highway, approximately 500 feet west of its intersection with York-Warwick Drive. The parcel is zoned LB (Limited Business) and is designated for Limited Business Use in the Comprehensive Plan.

**Ms. Amy Parker**, Senior Planner, reviewed the history of the applicant's property since the initial application was approved in 1997 and explained the three conditions of the approved resolution that are the primary focus of the application. Because none of the three conditions has been implemented the County has cited the applicant for zoning violations but is allowing six months for the applicant to comply with landscaping and parking requirements. The applicant, she continued, is requesting a two-year deferral for compliance with the conditions and has further indicated the property is on the market. Ms. Parker stated the staff recommends denial of the requested two-year extension, adding that the County was generous in allowing a five-year period to phase in the conditions.

Ms. Parker stated that the staff prepared proposed Resolution PC03-3(R) for the Commission's consideration, which would allow an additional six months for the applicant to obtain revised site plan approval and complete the work required under Condition Nos. 2 and 3.

Chair Hendricks opened the public hearing.

**Mr. Martin Fisher**, 108 Old Dominion Road, was the applicant's spokesman. Mr. Fisher reviewed a chronology of events that led to obtaining the use permit and to the present time. Mr. Fisher indicated the failure to implement the conditions was due to several mitigating circumstances including the Commonwealth Transportation Board's decision to remove widening of Route 17 to the Coleman Bridge from its six-year road plan, delays by the County that impacted commencement of landscaping, and prohibitive costs involved in meeting new fire regulations. Mr. Fisher said the property has been on the market for more than a year but the conditions of the site plan to reduce parking to 12 spaces in front of the existing structure has discouraged at least two possible sales.

Mr. Fisher said, while the County characterizes the subject segment of Route 17 as an entry to the historic area, it has remained predominantly undeveloped and if the applicant is not allowed the extra time it requests to improve its position then another empty building will result. He said he has talked with the Chief of Development and Compliance, Mr. Al Maddalena, about parking and revising the landscape plan, although he has not submitted a revised site plan for Mr. Maddalena's staff to consider.

Mr. Fisher said the restaurant on the adjacent property to the north of the applicant's property also is for sale, and he was hopeful that the restaurateur and the applicant could work together to create a shared commercial entrance from Route 17 and a shared rear parking area.

Mr. Heavner observed that not one of the five conditions of the use permit had been met since it was approved in 1998. Mr. Fisher said the applicant never expected to have to put in certain caliper trees and other requirements, so they gave up and put the property on the market. Mr. Heavner suggested that in six months the applicant should report progress to the County on implementing the conditions. Mr. Fisher said the applicant is unable to work with VDOT (Virginia Department of Transportation).

Mr. Hendricks inquired with whom the applicant had spoken to apprise the County of its problems with the conditions, and Mr. Fisher said they had not spoken to any County staff about the problems. Mr. Hendricks said he believed both the Planning and Development staffs would have been willing to work with them had the County known of the problems cited by Mr. Fisher.

**Mr. Dick Ambrose**, 205 Marl Ravine Road, stated that he owns property across Route 17 from and diagonal to the applicant's property. He said the County's requirements and restrictions stifle small business operations, resulting in business vacancies in that area. Mr. Ambrose said several competing Route 17 properties are for sale and if the County is lenient with one, the others could be disadvantaged. He said there is a philosophy that "government knows better than people know about what to do with their own property" and bureaucratic inefficiency keeps first submittals from being approved. Mr. Ambrose supported approving the applicant's request in order to keep the Columbian Council in its building and prevent another vacancy on Route 17.

The Chair closed the public hearing.

Commissioner Al Ptasznik stated he is a member of the applicant organization and requested the support of the Commission in approving at least a one-year, preferably a two-year, extension of time. The membership is comprised of Christian men who perform good acts for the community,



he said. Mr. Ptasznik stated the Council operates on volunteer labor, materials, and funds and produces very limited income from the facility with which to pay the mortgage and other bills.

Ms. White said she believed the use of the facility is a good one but expressed disappointment that the applicant had accomplished so little of what it had promised to do.

Mr. Heavner did not believe two years is necessary to meet the County's requirements. He had worked on several projects in the County for which four to six months from the time of site plan approval was an adequate time span to complete the entire project. He said failure of the applicant to document laxity on the part of VDOT has made it more difficult to understand the problem.

Mr. Barba did not doubt the goals of the Columbian Council were high but found it unsatisfactory that nothing had been done in the five years since the permit was approved. He added that the County's and VDOT's plans for widening Route 17 have been public knowledge for a long time. Mr. Barba favored a six-month extension.

Mr. Hendricks agreed with Mr. Barba and added he would have been more sympathetic if the applicant had made the County aware of its problems several years ago. All applicants should be held to the same standards, he asserted, and all applicants are expected to abide by the terms of their use permits. He believed that to make exceptions undermines the value of the Zoning Ordinance but he would be willing to compromise.

Ms. White suggested that if a six-month extension is approved, the applicant could return to the Commission and request additional time, if needed.

Mr. Fisher noted that he would welcome any compromise and asked that the Commission consider at least a 12-month extension because six months would not be enough time.

Mr. Carter advised that he would be amenable to the Commission adopting the staff's revised resolution to approve a six-month extension and allow a further extension at the discretion of the Zoning Administrator based on verification of due diligence by the applicant to complete the work.

Mr. Ptasznik moved adoption of Resolution PC03-3(R-2), as follows:

PC03-3(R-2)

On motion of Mr. Ptasznik, which carried 5:0, (Mr. Simasek absent), the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT  
TO AMEND THE CONDITIONS ESTABLISHED BY RESOLUTION NO. R97-  
125, APPLICABLE TO THE PROPERTY LOCATED AT 8729 GEORGE  
WASHINGTON MEMORIAL HIGHWAY**

WHEREAS, Columbian Council 7469, Inc. has submitted Application No. UP-614-03, which requests amendment of the conditions established by Resolution No. R97-125 applicable to

the property located at 8729 George Washington Highway and further identified as Assessor's Parcel No. 24A-1-5; and

WHEREAS, said application has been referred to the York County Planning Commission; in accordance with applicable procedure and;

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of January, 2003, that it does hereby transmit Application No. UP-614-03 to the York County Board of Supervisors with a recommendation of approval subject to the following conditions:

- 1 This special use permit shall authorize the continuation of a meeting hall pursuant to Section 24.1-306 (Category 4, Number 1) of the Zoning Ordinance at 8729 George Washington Memorial Highway, further identified as Assessor's Parcel No. 24A-1-5.
2. Landscaping as indicated on the site plan titled "Modified Site Plan & Facility Landscape Plan for Columbian Council 7469," dated 7/11/97, and approved by the York County Director of Environmental & Development Services on March 3, 1998, or other such revised site plan approved in accordance with Zoning Ordinance regulations shall be installed within six months from the date of approval of this special use permit by the Board of Supervisors.
3. Paving of the parking lot as indicated on the above referenced approved site plan, or other such revised site plan approved in accordance with Zoning Ordinance regulations shall be completed within six months from the date of approval of this special use permit by the Board of Supervisors.
4. The entrance to the property shall be upgraded to meet current Virginia Department of Transportation standards for commercial entrances within six months from the date of approval of this special use permit by the Board of Supervisors.
- 5 Except for members of the Columbian Council 7469, vehicular access to the rear parking area shall be prohibited.
6. Hours of operation and all activities shall cease by midnight.
7. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.
8. For good cause shown, the Zoning Administrator may authorize an extension of the six-month term for compliance specified in Condition Nos. 2, 3 or 4 above. Authorization of any additional time for compliance shall require a finding by the Zoning Administrator that the applicant has diligently pursued compliance by preparing and filing any site plan

amendment requests, by responding to any requirements for revision, by pursuing all necessary approvals and permits from VDOT for the commercial entrance, and/or by diligently pursuing construction of the improvements shown on the existing approved site plan or those shown on an approved revision. The Zoning Administrator may consider extenuating circumstances such as an extended site plan review period beyond the control of the applicant, as well as time required to pursue in good faith the possibility of a joint commercial entrance with the adjoining property to the north. Consideration of additional time for compliance with landscaping requirements shall be limited to those portions of the site dependent on the final location, design and construction of the commercial entrance.

BE IT FURTHER ORDAINED that the conditions stated above shall supercede the conditions listed in Resolution No. R97-125, as applied to the above-referenced parcel.

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NEW BUSINESS - None

#### STAFF REPORTS

Mr. Carter reported on recent actions taken by the Board of Supervisors. He reminded the members of their work session scheduled for January 22<sup>nd</sup> to discuss accessory apartments.

#### COMMISSION REPORTS AND REQUESTS

Chair Hendricks congratulated Mr. Jim Burgett and Mr. Tom Shepperd upon their election by the Board of Supervisors to serve as Chairman and Vice Chairman, respectively, for the year 2003.

#### COMMITTEE REPORTS

Mr. Carter noted the Regional Issues Committee will consider formulating a consolidated map incorporating Comprehensive Plan designations from all three jurisdictions.

Ms. White reported that staffing is underway for the senior housing subcommittee.

#### FUTURE BUSINESS

Mr. Carter noted the agenda items for future meetings

#### ADJOURNMENT

Adjournment was called at 9:20 PM.

SUBMITTED: Phyllis P. Liscum  
Phyllis P. Liscum, Secretary

APPROVED: Michael H. Hendricks  
Michael H. Hendricks, Chair

DATE: 2/12/03